

REMARKS

Claim Rejections – 35 USC § 103

The Office has quoted the statute from 35 USC 103(a), which is referenced herein. The Office has rejected claim 3, 4, 13, 14 and 21 as being unpatentable over Twiehoff et al. (US Pat. 4,524,460) and Ticknor et al. (US Pat. 4,233,367). Applicant has carefully considered the Office rejections and respectfully submits that the amended claims, as supported by the arguments herein, are distinguishable from the cited reference.

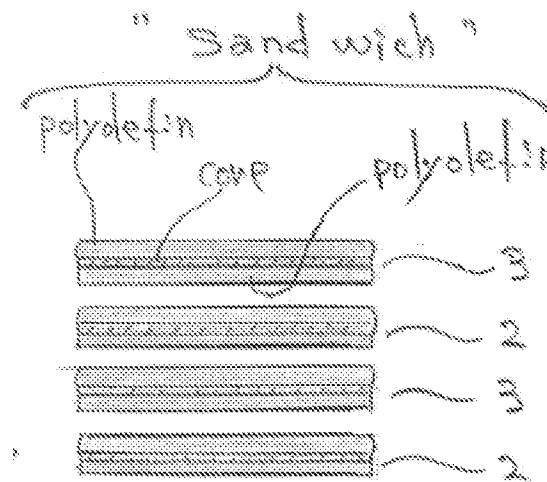
According to the MPEP §2143.01, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in either the references themselves or in the knowledge generally available to one of ordinary skill in the art."

A useful presentation for the proper standard for determining obviousness under 35 USC §103(a) can be illustrated as follows:

1. Determining the scope and contents of the prior art;
2. Ascertaining the differences between the prior art and the claims at issue;
3. Resolving the level of ordinary skill in the pertinent art; and
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

In contrast to the claimed invention, the applicant respectfully submits that the cited references fail to disclose a multiple layer bag configured according to the claimed invention. The cited ‘460 reference discloses, as has been discussed at length before, a “single ply” web of material (col. 3, l. 14) that is formed into a valved sack. In contrast to the claimed invention, the cited reference, the valved sack does not comprise multiple layers of a coextruded polymer material. The single ply web is folded in such a way as to achieve the geometry of the cited reference (itself different from that of the claimed invention). The ‘460 reference fails to disclose having a

web that has multiple fused plies, as in the claimed invention, where the material comprises a coextruded polymer sheet. In particular, it fails to disclose "said tubular film forming said multiple film being a tubular co-extrusion inflation film having a polyolefin layer on both sides of an un-oriented polyamide core. . ." An illustration of the polyolefin layer-unoriented polyamide - polyolefin layers is illustrated in the following drawing.



As illustrated, each the inner 2 and outer films 3 is provided with both outer layers of polyolefin and an inner core of unoriented polyamide. In contrast to the claimed invention, the '460 reference is most specific that this is not part of their disclosure. As recited in Col. 1, ll. 48-52 a "single layer" is used in forming the sack. While an alternative embodiment is described with respect to Figure 3, 4, 5 and 7, that provides two layers of web of film, this multiple layers embodiment of the '460 reference does not describe the claimed invention.

An illustration is provided below.

Fig. 3

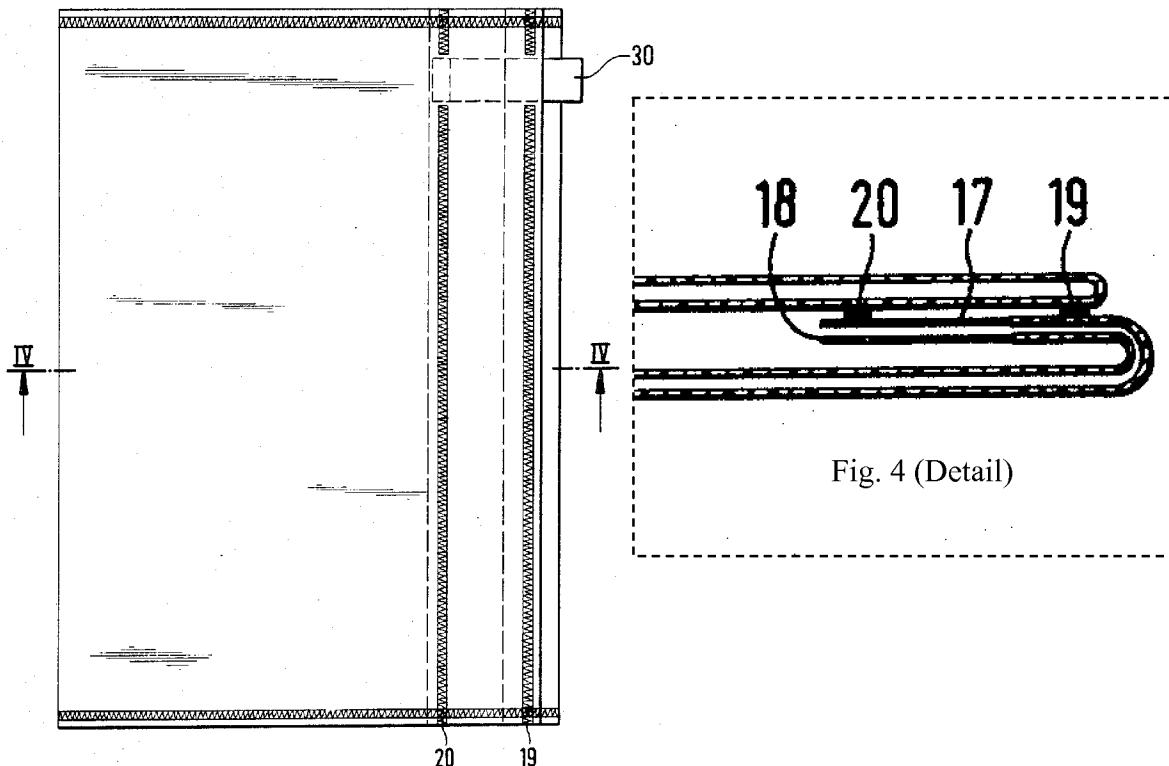


Fig. 4 (Detail)

Fig. 4

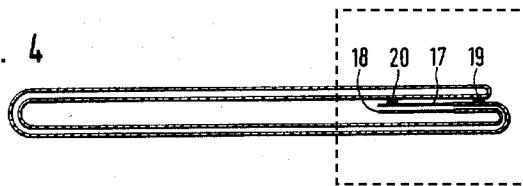
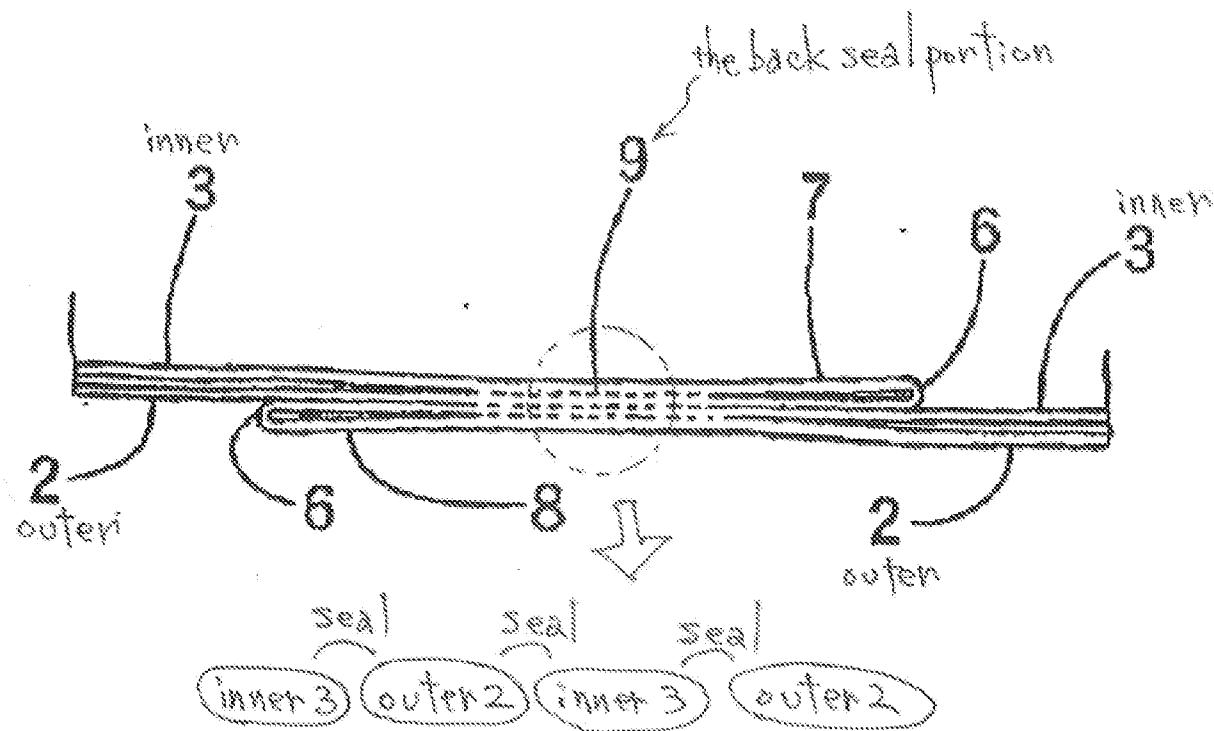


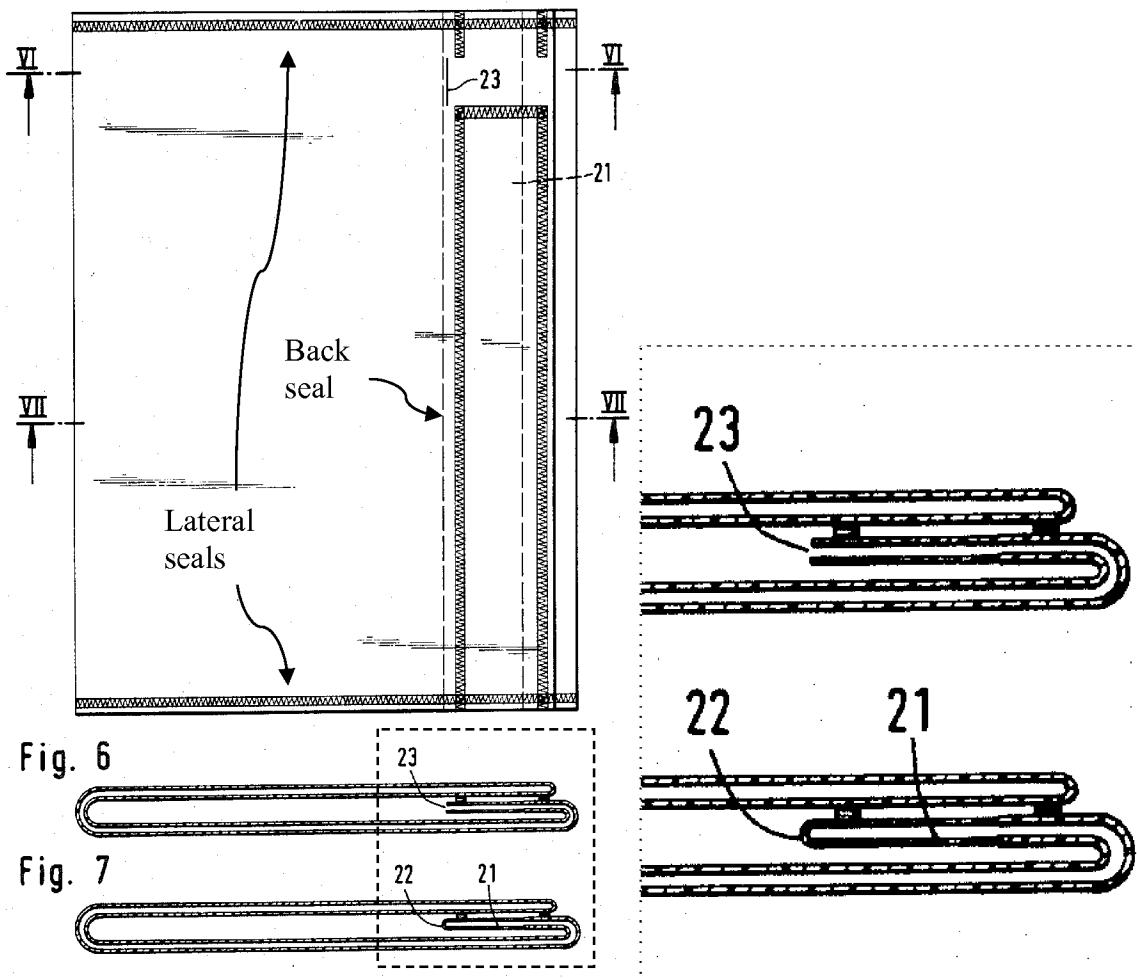
Figure 4 of the cited reference is a cross section of Figure 3, cut along line IV. As such it transverses the weld lines 20 and 19. A detail of Figure 4 is reproduced highlighting the section of the figure at issue. Note, the weld is disposed between single layers of the web, and the web is folded in on itself without providing additional puncture or pinhole resistance.

In contrast, the applicant draws the Office's attention to the following illustration of the claimed invention.



In this illustration, the applicant notes that each of the inner and outer layers of tubular file (3, 2), themselves laminated coextruded films with three layers, are used in the seal weld such that there are effectively seals between each of the layers of the weld. They are thus “overlapped” and “connected” in a way not found in the ‘460 reference.

Fig. 5



This is further contrasted with the illustrations of the cited '460 reference with regard to figures 5, 6, and 7. (Similar details are provided for Figures 6 and 7.) Figure 5 illustrates the alleged multi-layer version of the '460 reference. Figure 6 is a cross section along line VI, while Figure 7 is a cross section VII. The applicant respectfully submits that in neither location is the weld configuration such as that claimed in the claimed invention disclosed. The applicant respectfully submits that there is no illustration of teaching of Figure 7 of the weld passing through the 4 layers, indeed on the contrary, as can be seen above, the weld is only between two such layers.

In neither drawing is “a lateral seal portion welding a portion of said multiple film near both sides of end edges in which the inner film and the outer film are not connected.” The lateral seams in the ‘460 reference are not those of ref. nos. 20 and 19. There is no evidence for this lateral seam being anything other than a traditional weld, passing through all or some of the layers, as the layers involved in the lateral weld are simply not shown in Figure 5 as illustrated.

The applicant further reminds the Office, that while the walls of the ‘460 reference appear to consist of multiple layers, that is actually a result of the walls being illustrated according to the USPTO required drawing symbol for Synthetic Resin or Plastic (*cf.* 37 CFR 1.84(n)).

Further, the ‘460 reference is alleged to describe a back line seal portion of overlapped and connected multiple films. This is simply inconsistent to the term as it is defined in the specification. The applicant draws the Office’s attention to the annotated drawing above.

The Office acknowledges that the cited ‘460 reference fails to disclose the co-extrusion layering discussed above. To supply the place of this teaching, the Office cites US Pat. No. 4,233,367 for a “Coextruded Multilayer Film”. While the ‘367 reference does describe a material that has a layer of nylon sandwiched between layers of “modified polyolefin”. The applicant respectfully submits that this does not provide any teachings which supply the place of using such a material in the configuration claimed, and manifestly not disclosed in the ‘460 reference. The Office fails to disclose why one would combine a coextruded will such as that of the ‘367 reference with the bag having recited geometry of the ‘460 reference to obtain the profoundly different geometry of the claimed bag. Among other things, the ‘367 reference fails to disclose “a lateral seal portion welding a portion of said multiple film near both sides of end edges in which the inner film and the outer film are not connected.”

The applicant respectfully submits that the cited references, either alone or in combination fail to disclose the invention claimed in claim 1, and those claims dependant therefrom. The applicant respectfully requests that the Office withdraw its rejection of these claims.

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Applicant believes the above amendments and remarks to be fully responsive to the Office Action, thereby placing this application in condition for allowance. No new matter is added. Applicant requests speedy reconsideration, and further requests that Examiner contact its attorney by telephone, facsimile, or email for quickest resolution, if there are any remaining issues.

Respectfully submitted,

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